



UNITED STATES
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November 20, 2018

Via ECF & Facsimile to 212-805-6737

Hon. George B. Daniels
United States District Judge
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *SEC v. Durante*, 15-CV-9874-GBD (S.D.N.Y.)

Dear Judge Daniels:

We represent the plaintiff Securities and Exchange Commission ("Commission") in this action. This letter is to provide the Court with a status report on both this case and the parallel criminal case, *U.S. v. Durante*, 15-CR-171-ALC (S.D.N.Y.). On September 24, 2018, the Honorable Richard J. Sullivan directed the Commission to submit a status letter by November 20, 2018 to update the Court as to whether all defendants are willing to consent to resolution of the remaining claims in this action (docket no. 128). On October 29, 2018, the Court issued a Notice of Case Reassignment, indicating that the case had been reassigned to Your Honor and that Judge Sullivan is no longer assigned to the case.

By way of background, the Commission commenced this action by filing a complaint against defendant Edward Durante on December 15, 2018 (docket no. 1), and filed an amended complaint adding the other defendants on January 6, 2016 (docket no. 7). On March 23, 2016, the Court entered a stay of this matter pending resolution of the parallel criminal action (minute entry Mar. 23, 2016). On May 22, 2018, the court lifted the stay and returned the case to the active docket (docket no. 112). While the stay was in place and then after the stay was lifted, defendants Christopher Cervino, Abida Khan a/k/a Sheik Firdosh Khan, Walter Reissman, Larry Werbel and Kenneth Wise consented to partial judgments imposing the non-monetary relief the Commission sought in this action, and the Court entered judgments as to each of them (docket no. 94 – Cervino, 96 – Khan, 98 – Reissman, 104 – Wise, and 114 – Werbel). In addition, the Commission authorized the staff to withdraw the claims asserted against defendant Evolution Partners Wealth Management LLC. The Commission filed a notice of voluntary dismissal on September 12, 2018 (docket no. 123), and the Court subsequently ordered that the action be dismissed without prejudice as to Evolution Partners (docket no. 124).

In the criminal action, the individual defendants have been convicted for the same conduct at issue in this action. Specifically, Cervino and Khan were convicted by a jury following trial, and Durante, Reissman, Wise and Werbel pled guilty. In addition, all individual defendants have been sentenced in the parallel criminal action, with the final sentencing having been held on July

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17, 2018. As part of the sentencing process, each defendant is subject to a forfeiture order in the criminal action. As of this time, no restitution orders have been entered as to any of the defendants.

After the terms of sentencing had been established, the Commission staff was in the position to attempt to resolve on consent the claims for monetary relief (disgorgement and civil penalties) against the individual defendants. The staff communicated with each of the individual defendants in an effort to reach such agreement, and we provided consents to the entry of proposed final judgments to the defendant reflecting the terms the staff is prepared to recommend to the Commission for resolution of the claims for monetary relief. At this time, the staff has now received executed consents to the entry of final judgments from each of the individual defendants. Accordingly, the staff has begun the process of seeking Commission authorization to resolve the claims for monetary relief on the terms agreed to between the staff and the individual defendants. Once the Commission has had the opportunity to consider the staff's recommendation, we propose to report back to the Court and, if the Commission accepts the recommendation, present the proposed consent final judgments to the Court. If the Commission accepts the recommendation, and the Court enters the final judgments, it will completely resolve the remaining claims in this action.

In light of this, the Commission proposes to provide the Court with a further status report update within 60 days as to the status of the Commission's consideration of the recommendation, or sooner if the Commission completes its consideration of the recommendation before the status report would otherwise be due.

Respectfully submitted,

/s/ Paul G. Gizzi

/s/ James K. Hanson

Paul G. Gizzi

James K. Hanson

Cc: All Defendants
U.S. Attorney's Office